

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

*** DOCKET NO. 2020-9374-ETHICS-B**

IN THE MATTER OF

MICHAEL S. "MIKE" MOSURA

*** AGENCY TRACKING NO. 5120-082**

DECISION AND ORDER

Michael S. "Mike" Mosura knowingly failed to file his supplemental campaign finance disclosure report for the 2019 calendar year, in accordance with La. R.S. 18:1495.4(D)(1), in connection with his 2003 candidacy for the office of Bossier Parish School Board Member. The Louisiana Board of Ethics, acting in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose upon Michael S. "Mike" Mosura an additional civil penalty not to exceed \$10,000.00, as allowed by La. R.S. 18:1505.4(A)(4)(b).

APPEARANCES

An adjudicatory hearing was conducted April 8, 2021, in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).¹ Charles Reeves appeared as counsel on behalf of the Louisiana Board of Ethics (BOE). Although duly noticed, Michael S. "Mike" Mosura (Respondent) did not appear for the hearing.²

¹ The Panel B of the Ethics Adjudicatory Board consisted of administrative law judges Gregory McDonald (presiding), Esther Redmann, and Edwin Hightower.

² The hearing notice was mailed by U.S. mail on February 11, 2021, by the Administrative Hearings Clerk for the Division of Administrative Law (DAL) to Mr. Michael S. "Mike" Mosura, 2809 Sunrise Pt., Haughton, Louisiana 71037, and was not returned as undeliverable. This is the same address that the DAL mailed to Respondent the final conference report scheduling the hearing and setting prehearing deadlines. This is the same address that the BOE mailed to Respondent the BOE's letter scheduling a Rule 10.1 Discovery Conference and its Prehearing Statement, including its witness list, exhibit list, and exhibits intended to be introduced at the hearing, all by certified mail, return receipt requested, and the receipts were signed and returned. See BOE 12.

STATEMENT OF THE CASE

The BOE requested that the EAB conduct an adjudicatory hearing to determine whether Respondent knowingly failed to file his 2019 supplemental campaign finance disclosure report as required by La. R.S. 18:1495.4(D)(1), in connection with his April 5, 2003, candidacy for the office of Bossier Parish School Board Member, which would subject him to an additional civil penalty not to exceed \$10,000.00, as authorized by La. R.S. 18:1505.4(A)(4)(b).

At the hearing, BOE offered its exhibits, numbered BOE-1 through BOE-14, which were admitted into evidence. Counsel presented the case on behalf of the BOE, the record was closed, and the matter was submitted for decision.

This adjudication is conducted in accordance with the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, and the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, and the enabling legislation of the Division of Administrative Law, La. R.S. 49:991, *et seq.*

FINDINGS OF FACT

Respondent was a candidate for the office of Bossier Parish School Board Member, in the April 5, 2003, primary election.³ The office of Bossier Parish School Board Member is an “any other” level public office.⁴ Respondent received forty-six percent of the vote in the primary election and qualified to participate in the May 3, 2003, general election.⁵ Respondent was the successful candidate for the office of Bossier Parish School Board Member in the May 3, 2003, general election.⁶ Respondent continued to serve in the office of Bossier Parish School Board

³ BOE-3, p. 1. Respondent admitted, by operation of La. C.C.P. art. 1467(A), that he was a candidate for the office of Bossier Parish School Board Member. *See* BOE-11, p. 3.

⁴ *See* La. R.S. 18:1483(16); La. R.S. 18:1484(2).

⁵ BOE-3, p. 1.

⁶ BOE-3, p. 3; BOE-4

Member through August 12, 2019.⁷

The BOE is the Supervisory Committee on Campaign Finance Disclosure under the CFDA.⁸ Election candidates, when qualifying at their respective clerks of court, are provided with the BOE's *Schedule of Reporting and Filing Dates for Candidates* (Schedule).⁹ The Schedule informed Respondent that supplemental campaign finance disclosure reports shall be filed by February 15th to disclose a residual deficit or surplus through December 31st of the preceding year.¹⁰ Upon qualifying to run for office, Respondent also acknowledged that he was subject to the provisions of the CFDA.¹¹

On March 26, 2003, Respondent filed a final campaign finance disclosure report, which disclosed a surplus of \$605.60 and a deficit of \$4,250.00, as of March 16, 2003.¹²

Respondent filed supplemental campaign finance disclosure reports through calendar year 2009.¹³ Respondent disclosed on his 2009 supplemental campaign finance disclosure report that he had a residual surplus of \$422.25, and a residual deficit of \$7,250.00.¹⁴

Respondent did not file his supplemental campaign finance disclosure report for calendar year 2019, by the February 18, 2020, deadline.¹⁵

On July 8, 2020, the BOE issued a *Late Fee Assessment Order* to Respondent because he

⁷ BOE-4.

⁸ La. R.S. 18:1483(19).

⁹ See BOE-5. The Campaign Finance Disclosure Act, La. R.S. 18:1481, *et seq.*, also provides the same schedule of reports due. See La. R.S. 18:1495.4.

¹⁰ BOE-5, p. 2.

¹¹ BOE-2, p. 3.

¹² BOE-6.

¹³ BOE-7. Counsel for the BOE represented to the tribunal that Respondent did not file supplemental campaign finance disclosure reports for calendar years 2010 through 2018. The BOE has not brought charges before the EAB for those deficiencies.

¹⁴ BOE-7. Respondent misclassified the 2009 supplemental campaign finance disclosure report as an annual report.

¹⁵ See BOE-10. Because February 15, 2020, fell on a Saturday, and Monday, February 17, 2020, was a holiday, Respondent's 2019 supplemental campaign finance disclosure report was due no later than the next business day, February 18, 2020.

had not filed the 2019 supplemental campaign finance report.¹⁶ The *Late Fee Assessment Order* (a) assessed a late fee of \$1,000.00 and (b) ordered Respondent to file his supplemental campaign finance disclosure report for calendar year 2019 within 20 days of his receipt of the order.¹⁷ The BOE stated in its letters accompanying the *Late Fee Assessment Order* that Respondent could be subject to an additional civil penalty not to exceed \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to file his supplemental campaign finance disclosure report for calendar year 2019.¹⁸

On December 3, 2020, the BOE mailed a copy of the *Request for Hearing* to Respondent, with written discovery, including *Requests for Admissions*, propounded to Respondent, by certified mail, return receipt requested, to Respondent's then address at 2400 Churchill Drive, Bossier City, Louisiana, 71111-5558, and the return receipt was signed and returned.¹⁹ Respondent was notified in the letters accompanying the copy of the *Request for Hearing* and the attached discovery requests propounded to Respondent that he could be subject to an additional civil penalty not to exceed \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4)(b), if he failed to file his supplemental campaign finance disclosure report for calendar year 2019.

On January 29, 2021, the BOE requested Respondent participate in a Rule 10.1 Discovery Conference because Respondent did not respond to the BOE's discovery requests; the request was sent by certified mail, return receipt requested, to Respondent's current address at 2809 Sunrise Point, Houghton, Louisiana, 71037, and the return receipt was signed and returned.²⁰

As of the April 8, 2021, hearing, Respondent had not filed his 2019 supplemental campaign

¹⁶ BOE-9.

¹⁷ *Id.*

¹⁸ *Id.* at p. 1.

¹⁹ See BOE-11.

²⁰ BOE-12.

finance disclosure report and had not filed responses to the *Requests for Admissions*.²¹

CONCLUSIONS OF LAW

The BOE proved that Respondent knowingly failed to file his supplemental campaign finance disclosure report for calendar year 2019 by February 18, 2020. The BOE is authorized to impose upon Respondent an additional civil penalty not to exceed \$10,000.00, as allowed by La. R.S. 18:1505.4(A)(4)(b).

In hearings under the CFDA before the EAB, the BOE must prove by clear and convincing evidence that the candidate knowingly failed to file or knowingly failed to timely file a required campaign finance disclosure report.²²

Every candidate for an “any other” level public office is required to file certain campaign finance disclosure reports by the statutory deadlines.²³ Failure to timely submit required reports constitutes a violation of the CFDA.²⁴

La. R.S. 18:1495.4(D)(1) provides that if the final report of a candidate for an election shows a deficit or surplus, the candidate and his treasurer, if any, shall file supplemental reports with the BOE no later than February 15th each year, which shall be complete through the preceding December 31st. Such report shall be filed each year until a report has been filed which shows no deficit and until any surplus campaign funds have been disposed of in accordance with La. R.S. 18:1505.2(1).²⁵

Respondent was the successful candidate for the office of Bossier Parish School Board

²¹ BOE- 14. Respondent admitted, by operation of La. C.C.P. art. 1467(A) that he did not file the 2019 supplemental campaign finance disclosure report. See BOE-11, p. 3.

²² See La. R.S. 42:1141.5(C). “‘Clear and convincing evidence’, in general, means that the fact of guilt must be proven to a greater degree than by ‘a mere preponderance of the evidence’ but less than by ‘beyond a reasonable doubt.’” *Louisiana State Bar Ass’n v. Edwins*, 329 So. 2d 437, 442 (La. 1976).

²³ La. R.S. 18:1495.4.

²⁴ La. R.S. 18:1505.1(B).

²⁵ La. R.S. 18:1495.4(D)(1).

Member, which is an “any other” level public office,²⁶ in the April 5, 2003, election. On March 26, 2003, Respondent filed his final campaign finance disclosure report²⁷ in connection with the April 5, 2003, election, which showed a residual surplus of \$605.60 and a residual deficit of \$4,250.00, as of March 16, 2003.

As a candidate to an “any other” level public office, who filed a final report showing a surplus and deficit in connection with the April 5, 2003, election, Respondent was required to file annual supplemental campaign finance disclosure reports until a report was filed that showed no deficit or surplus.²⁸ The supplemental reports were due no later than February 15th, and shall be complete through the preceding December 31st.²⁹

Respondent filed supplemental campaign finance disclosure reports through calendar year 2009. Respondent’s 2009 supplemental campaign finance disclosure report showed a residual surplus of \$422.25, and a residual deficit of \$7,250.00.

Because Respondent had a residual surplus and a residual deficit in 2009, Respondent was required to file supplemental campaign finance disclosure reports each year until a report was filed that showed no deficit and until a report was filed that showed any surplus campaign funds were properly disposed as required.

Respondent did not file a 2019 supplemental campaign finance disclosure report by February 18, 2020. Respondent has never filed a supplemental campaign finance disclosure report that showed no surplus and no deficit.

Any candidate for “any other” level public office who knowingly fails to timely file a

²⁶ See La. R.S. 18:1483(16); La. R.S. 18:1484(2); and BOE-5, p. 2.

²⁷ Respondent was required to file this campaign finance disclosure report because he received a contribution in excess of \$200.00 and had expenditures in excess of \$2,500.00. See La. R.S. 18:1484(2); La. R.S. 18:1495.4.

²⁸ La. R.S. 18:1495.4(D)(1).

²⁹ *Id.*

required report may be assessed a civil penalty in the amount of \$40.00 per day, not to exceed \$1,000.00.³⁰ “Knowingly” means conduct which could have been avoided through the exercise of due diligence.³¹

Respondent knew he was required to file certain campaign finance disclosure reports when he acknowledged he was subject to CFDA upon qualification for candidacy. Respondent was provided the Schedule, which informed him that supplemental reports shall be filed by February 15th to disclose a residual deficit and a residual surplus through December 31st of the preceding year. Respondent knew of the filing requirement evidenced by his filing supplemental campaign finance disclosure reports through calendar year 2009.

On July 8, 2020, the BOE issued a *Late Fee Assessment Order* and assessed a civil penalty in the maximum amount of \$1,000.00, because Respondent knowingly failed to file the 2019 supplemental campaign finance disclosure report. This assessment is not before the EAB. In the letters accompanying the *Late Fee Assessment Order*, the BOE notified Respondent that he could be subject to an additional civil penalty not to exceed \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), for failing to file the 2019 supplemental campaign finance disclosure report, and the BOE ordered Respondent to file the 2019 supplemental report within 20 days of receipt of the *Late Fee Assessment Order*. In the letters accompanying the BOE’s requests for discovery, including its *Request for Admissions*, the BOE notified Respondent that he could be subject to an additional civil penalty not to exceed \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), for failing to file the 2019 supplemental campaign finance disclosure report. Respondent knew he was obligated to meet the CFDA filing requirements by the statutory deadlines and that additional civil penalties not to exceed \$10,000.00, could be imposed if he did not file the 2019 supplemental

³⁰ La. R.S. 18:1505.4(A)(2)(a)(iii).

³¹ La. R.S. 18:1505.5.

campaign finance disclosure report. Respondent has not filed a 2019 supplemental campaign finance disclosure report. The BOE proved, by clear and convincing evidence, that Respondent knowingly failed to file his 2019 supplemental campaign finance disclosure report.

Additionally, Respondent's failure to file his supplemental campaign finance disclosure report for calendar year 2019 within three days after the final date for filing creates a rebuttable presumption of intent to not file the report.³² Nothing in evidence rebuts this statutory presumption.

If, after conducting an adjudicatory hearing, the EAB determines that Respondent knowingly failed to file a required campaign finance disclosure report within the applicable time period, then the BOE may impose an additional civil penalty not to exceed \$10,000.00, against Respondent for the report that he failed to timely file.³³

The BOE proved by clear and convincing evidence that Respondent, the successful candidate for the "any other" level public office of Bossier Parish School Board Member, knowingly violated the CFDA by failing to file his 2019 supplemental campaign finance disclosure report. The BOE, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose against Respondent an additional civil penalty not to exceed \$10,000.00, for the late report as authorized by La. R.S. 18:1505.4(A)(4)(b).

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³² La. R.S. 18:1505.1(A).

³³ La. R.S. 18:1505.4(A)(4)(b).

ORDER

IT IS ORDERED that the Louisiana Board of Ethics, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, is authorized to impose an additional civil penalty not to exceed \$10,000.00, against Michael S. “Mike” Mosura for his failure to file his supplemental campaign finance disclosure report for calendar year 2019.

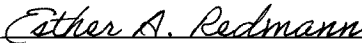
Rendered and signed on May 11, 2021, in Baton Rouge, Louisiana.



Gregory McDonald
Presiding Administrative Law Judge



Edwin L. Hightower
Administrative Law Judge



Esther A. Redmann
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Tuesday, May 11, 2021, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court

Division of Administrative Law

REVIEW RIGHTS

This decision exhausts your administrative remedies. If you are dissatisfied with this ruling, you may have the right to seek a rehearing or reconsideration of this decision or order, subject to the grounds for and time limitations provided in Louisiana Revised Statutes 49:959 and Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 49:964, La. R.S. 42:1142(A)(1), and La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.